

The Honorable Benjamin H. Settle

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CALEB JESSIE CHAPMAN,

Defendant.

NO. MJ21-05185

GOVERNMENT RESPONSE TO
DEFENDANT'S MOTION FOR REVIEW
OF MAGISTRATE COURT ORDERS OF
DETENTION

I. Introduction

Chapman advances no reason to disturb the Court's well-founded detention order. The Magistrate Judge appropriately found that the defendant presents a substantial risk to the community based on the instant offense, his alleged pattern of domestic violence, and the insufficient structure of his proposed release plan. The Government submits this response to Defendant's Motion for Review Magistrate Court Orders of Detention.

II. Factual Background

At about 2:00 AM on August 29, 2021, CALEB CHAPMAN contacted R.H. at R.H.'s home and gave R.H. a handwritten note that discussed his grievances with the White House, his difficulty with obtaining ammunition, and referenced a pending "revolution" starting on the Olympic Peninsula and in Texas. A copy of the note is attached as Attachment A. At that time, CHAPMAN was armed with AR-15 rifle and a

1 handgun that was concealed in his waistband. R.H. told law enforcement that he did not
2 know CHAPMAN and that he was fearful when CHAPMAN showed up at his door at
3 that time of night with weapons.

4 At about 4:30 AM the same morning, the Peninsula Emergency Communications
5 Center (PENCOM) received a 911 telephone call reporting a wildfire burning in Olympic
6 National Park, about one mile south of the intersection of the Hurricane Ridge Parkway
7 and Mt Angeles Road. The Clallam County Fire Department and US Park Service
8 responded to this wildfire and extinguished it. A Washington Department of Natural
9 Resources wildland fire investigator responded to the fire and determined that it was
10 human caused and intentionally set.

11 Later that morning, PENCOM received a report that a tree had been cut down and
12 was blocking Deer Park Road within the boundaries of Olympic National Park. Deer Park
13 Road leads to Deer Park Campground and ends just below the summit of Blue Mountain.
14 A Park Ranger located one Douglas Fir tree that had been felled but had been moved to
15 the road shoulder by a Park Service contractor. The tree was originally blocking the road.
16 The Park Ranger located a second Douglas Fir tree that had been cut as if it was intended
17 to be felled but was still was standing.

18 At about 10:09 AM, Rangers located the vehicle that the defendant had arrived at
19 the park in. An adult female, A.J., was still in the vehicle. A.J. told the ranger that she
20 was CHAPMAN's girlfriend, and that CHAPMAN was armed with multiple firearms
21 somewhere near them on Blue Mountain. On August 29, 2021, A.J. was interviewed by
22 agents. She told them that sometime after midnight on August 29, 2021, CHAPMAN,
23 who had been using methamphetamine, began acting erratically. At approximately 2:00
24 a.m., after dropping his kids off with his brother, CHAPMAN and A.J. went to R.H.'s
25 house to deliver a note CHAPMAN had written to R.H.

26 After speaking with R.H. and delivering his note to at least one other personal
27 acquaintance, CHAPMAN and A.J. drove to the Deer Park campground in the Olympic
28 National Park. On their way to the campground CHAPMAN drove up the Hurricane

1 Ridge Parkway a short distance, stopped the truck, and walked into the woods. Shortly
2 thereafter A.J. saw embers from a fire near CHAPMAN's location. Upon his return to the
3 truck, CHAPMAN smelled of gasoline. Though A.J. described the fire as being on the
4 Deer Park Road, the fire was found to be within the first mile on the Hurricane Ridge
5 Parkway and investigators believe that A.J. mixed up the names of the roads.

6 While traveling towards the campground, up Deer Park Road, A.J. indicated
7 CHAPMAN stopped the truck multiple times. A.J. observed CHAPMAN exit the truck
8 and she heard a chainsaw being operated. It was dark and she was unsure of what he was
9 doing. This activity as described by A.J. is consistent with the location of the felled tree
10 observed by NPS employees.

11 At approximately 6:00 a.m. on August 29, A.J. and CHAPMAN arrived at the
12 Deer Park Campground area. According to A.J., CHAPMAN became increasingly upset.
13 CHAPMAN told A.J. that she was going to die because of the "revolution." CHAPMAN
14 made suicidal comments about himself, including telling A.J. that he was never going to
15 see his children again and that this was his "last day." A.J. stated that she was able to
16 surreptitiously dial 911 from a cell phone during this time. CHAPMAN became aware of
17 this, and grew enraged, telling A.J. that she didn't know what she had just done.

18 While arguing with A.J., CHAPMAN threw a full and unopened soup can at A.J.,
19 hitting her and causing a laceration to her leg. CHAPMAN proceeded to grab A.J. by the
20 head and hit her head, repeatedly, against the car seat while telling A.J. to "shut up." A.J.
21 then observed CHAPMAN leave the truck and walk into the woods while yelling and
22 screaming. A.J. stated that when CHAPMAN left he was wearing a black colored tactical
23 vest, a sleeveless shirt, jeans, and was armed with a semi-automatic rifle, a shotgun, and
24 multiple handguns. During the investigation, law enforcement officers observed a
25 laceration on A.J.'s leg. A.J. reported to law enforcement in a later interview that
26 CHAPMAN held a knife to her wrist prior to their arrival to the park because he wanted
27 to "cut the chip out" of her wrist. She was able to get her arm away from him before he
28 cut into her.

1 A.J. told agents that CHAPMAN had been talking about a “revolution” and he
2 believes that there is going to be an armed conflict with the government. A.J. told
3 investigators that she did not believe that CHAPMAN would harm the public but
4 believed he will act violently towards law enforcement if he feels threatened. A.J. also
5 believed that CHAPMAN has additional methamphetamine in his possession. Agents did
6 locate methamphetamine with CHAPMAN’s possessions in the forest.

7 Rangers then evacuated the Deer Park campground, trailheads, and road areas. For
8 the next few hours, NPS Rangers, Port Angeles Police Officers, Clallam County Sheriff’s
9 Deputies and Federal Bureau of Investigations (FBI) Special Agents (SA) attempted to
10 locate CHAPMAN using exigent cellular telephone location data (pings), and a police
11 dog.

12 At about 3:00 PM, the Olympic National Park radio communications site (radio
13 repeater) located at summit of Blue Mountain suddenly stopped functioning. This radio
14 repeater is owned by the National Park Service. It is used by Olympic National Park for
15 emergency response, public safety, and administrative radio communications.

16 On August 31, 2021, at approximately, 9:00 PM, CHAPMAN was located by an
17 Unmanned Aircraft System (UAS) commonly referred to as a “drone.” CHAPMAN was
18 inside the Ford F-250 pick-up truck that was still parked at the Blue Mountain Summit
19 parking lot. The UAS was remotely operated by law enforcement and was being used to
20 perform a reconnaissance of the area. CHAPMAN fired at the UAS with a modified
21 Remington, Model 870, pump-action shotgun with an overall length of less than 26
22 inches (the stock had been removed).

23 Law Enforcement Officers were ultimately able to contact CHAPMAN on his cell
24 phone and were eventually able to negotiate his surrender. At about 9:51 PM, after a
25 SWAT team and BearCat were on scene, CHAPMAN surrendered to the FBI Agents and
26 was placed under arrest. This was two and a half days after he initially entered the Park
27 with A.J and over two days after the Park was evacuated.
28

1 After CHAPMAN was arrested, NPS and FBI officers seized as evidence four
2 semi-automatic pistols, two semi-automatic rifles, and one 20-gauge pump action shotgun
3 from areas adjacent to CHAPMAN's arrest. In CHAPMAN's truck, law enforcement
4 observed two Stihl chainsaws and multiple boxes of ammunition in plain view. In total,
5 law enforcement recovered 3,883 total rounds, including 12 types of ammunition, and 15
6 loaded magazines (some taped together for quick reloading) from the defendant's vehicle
7 and belongings in the Park.

8 Agents then searched the Blue Mountain radio repeater site with the assistance of
9 the NPS IT Specialist, who is a subject matter expert regarding NPS radio repeaters. He
10 observed that the padlock had been removed and the repeater had been tampered with,
11 including the radio repeater power cable and the transmitting antenna cable, which were
12 removed from the radio repeater.

13 The NPS Agents searched the general area around the summit of Blue Mountain
14 parking lot. There, they found two caches of CHAPMAN's items that had been left on
15 the Blue Mountain "rainshadow trail." At these locations, agents found several hundred
16 live ammunition cartridges in various calibers and quantities (included in the count
17 above), a loaded Smith & Wesson MP 9mm semi-automatic pistol, radio repeater
18 electrical components, an Olympic National Park radio frequency list, a radio
19 microphone, food and water, knives, general survival equipment, a brown leather journal
20 with CHAPMAN's photograph on it, personal items and identification cards belonging to
21 CHAPMAN, A.J. and other individuals, along with a baggie of methamphetamine.

22 When performing records checks of the Smith & Wesson MP .40 caliber semi-
23 automatic pistol, serial number HVN7197, that was seized in the area surrounding
24 CHAPMAN at the time of his arrest, Port Angeles Police determined this pistol was
25 reported as stolen to the Port Angeles Police Department in 2017.

26 On September 1, 2021, the defendant had an initial appearance on a Complaint
27 charging him with one count of Assault by Striking, Beating or Wounding in violation of
28 Title 18, United States Code, Section 113(a)(4). The detention hearing was set for

1 September 7, 2021 and he was detained. Defendant filed a motion to reopen the
 2 detention hearing and a hearing was held on September 23, 2021. The Court found that
 3 while there was new information presented, it was not material to the issue of whether
 4 there are conditions of release that will reasonably assure the appearance of the person as
 5 required and the safety of any other person in the community. This motion followed.

6 III. Legal Standard

7 Defendant is both a flight risk and a danger to the community due to his erratic
 8 and dangerous behavior while on methamphetamine. Regarding flight risk, while the
 9 defendant only has one FTA that is twenty years old, his behavior in this case shows his
 10 desire and ability to evade law enforcement at least while under the influence of
 11 methamphetamine. As to the latter, the circumstances of the offense conclusively show
 12 he is a danger to the community. While these risks currently appear to be tied to his
 13 methamphetamine use, his status as a habitual user and the inability of any conditions of
 14 release to truly prevent him from using methamphetamine support the Magistrate Judge's
 15 findings. This motion should therefore be denied.

16 A. **Standard of Review.**

17 An appeal of a magistrate's detention order is governed by 18 U.S.C. § 3145(b),
 18 which provides: "If a person is ordered detained by a magistrate judge, . . . the person
 19 may file, with the court having original jurisdiction over the offense, a motion for
 20 revocation or amendment of the order . . ." The district court then reviews de novo the
 21 magistrate judge's detention order. *See United States v. Koenig*, 912 F.2d 1990, 1192
 22 (9th Cir. 1990). The district court need not give deference to the findings or the ultimate
 23 conclusion of the magistrate judge. *Id.*

24 B. **Judge Fricke Correctly Ordered Defendant Detained.**

25 Judge Fricke properly detained the defendant at his original detention hearing and
 26 at the hearing on the defendant's motion to reopen. Nothing offered on the defendant's
 27 motion for review changes that analysis.

28 //

1 **1. General Standards for Detention**

2 This Court is quite familiar with the legal standards governing detention or
3 release. To summarize, the Bail Reform Act provides that a court should detain a
4 defendant pending trial if “no condition or combination of conditions . . . will reasonably
5 assure the appearance of the person as required and the safety of any other person and the
6 community.” 18 U.S.C. § 3142(f). The United States typically bears the burden of
7 showing that a defendant poses a danger to the community by clear and convincing
8 evidence, and it bears the burden of showing that a defendant poses a flight risk by a
9 preponderance of the evidence. *United States v. Gebro*, 948 F.2d 1118, 1120 (9th Cir.
10 1991).

11 In determining whether there are conditions of release that will reasonably assure
12 the appearance of the defendant and the safety of the community, this Court must
13 consider the nature and circumstances of the offense charged, the weight of the evidence,
14 the defendant’s history and characteristics, and the nature and seriousness of the danger
15 posed by the defendant if released. 18 U.S.C. § 3142(g).

16 **2. The Defendant Does Not Qualify for Release Pursuant to 18 U.S.C.**
17 **§ 3142**

18 All of the statutory factors continue to counsel against Chapman’s release. The
19 Defendant’s detention is required if “no condition or combination of conditions will
20 reasonably assure the appearance of [Chapman] as required and the safety of any other
21 person and the community.” 18 U.S.C. §3142(e)(1). Judge Fricke made these findings
22 during the initial detention hearing and determined that Chapman should be detained
23 pending trial. Dkt. 11.

24 *a. The Nature and Circumstances of the Offense*

25 The nature and circumstances of this offense support detention. The defendant’s
26 alleged conduct is extremely concerning in this case and the risk to the community is
27 significant. The defendant brought a cache of weapons, including an illegally altered
28 firearm and a stolen firearm, and over 3,800 rounds of ammunition into the Olympic

1 National Park. He indicated that his actions were related to a revolution against the
2 government and wrote a letter that says in part, “Do it right Americans, [and] when the
3 ones who say they are proud [and] want those freedoms back as they point a gun at
4 you...Look them right back and shoot the sneaky, cowardly, treasoness [*sic*] punks!!!”
5 The defendant also fired two shots at a government drone with one of the weapons that he
6 brought. The defendant argues that he was not a risk to anyone and that he merely
7 retreated to the woods, terrified for his safety. However his paranoia, cache of weapons
8 and ammunitions, and stated willingness to shoot anyone who he deemed to be part of his
9 fictional revolution undeniably created a risk to the public. He also endangered his
10 victim in this case, A.J., not only by the charged assault, but also his earlier attempts to
11 cut an imagined chip out of her arm.

12 Additionally, he started a fire in a national park during one of the hottest months
13 of the year, which could have had devastating consequences, and then appears to have
14 taken deliberate steps to interfere with emergency response to the Park including cutting
15 down a tree to block the road and disabling the emergency radio communication system
16 on the mountain. He made statements to A.J. that he believed they were both going to die
17 and physically assaulted her when she tried to call for help.

18 Though the defendant did eventually surrender to law enforcement, that was after
19 days in the forest, approximately an hour of negotiating with police, and in response to
20 significant law enforcement presence including a SWAT Team and BearCat. Defendant
21 included a portion of the police report detailing the negotiations in his Brief to the Court,
22 but omitted the proceeding page, which states the following:
23
24
25
26
27
28

At this point, Olympic National Park was looking at the federal equivalent of Assault 4, domestic violence for an assault on Aimee Johnson. A radio repeater had gone offline on Blue Mountain, but we did not know at this point what involvement Caleb may have had in that. There had been a report that someone believed they had heard automatic gunfire near the summit of the mountain, where the repeater was located.

After the speaking with Agent Halla, Corporal Ordon and went and interviewed Caleb's brother, Travis Chapman at Travis' home. Travis told us that his brother has been using methamphetamine with increasing frequency lately. I learned that Caleb had cut Travis' phone and internet cables a little over a month ago because he was paranoid about someone listening in on their conversations. Travis informed us that Caleb had left a car trailer at his house Saturday night with some random items hastily assembled on it including a generator and other items. Travis also told us that Caleb left his children with Travis as an unplanned idea on Saturday, and Travis took the children out of concern for their safety because of how his brother was acting. Travis described his brother as very caring, and a good father.

When Corporal Ordon and I returned to the Sequim Police Station, I learned that the FBI SWAT team had developed a plan to drive up the ONP Deer Park Road, with a drone flying ahead of it as a scout. Detective Dropp had researched several reports and protection orders involving Caleb and I read those. The mother of Caleb's children, Delores Chapman, had died in a vehicle collision in 2018.

As a team, we worked to develop a planned approach to how we would talk with Caleb. We also discussed possibly using text message to start our conversation.

At about 1955 we received a report that Caleb had shot at the drone, and it was requested that we attempt to start a dialog with him. I attempted to call at 1959 and did not receive an answer, because of this, I started to attempt contact by text message and was successful. We exchanged text messages, and he agreed to answer his phone if I called, although initially he did not answer and told me by text that he had poor reception. I was able to make phone contact at 2031, and Caleb stayed on the phone with me for the next 49 minutes and 34 seconds.

The defendant's actions were simultaneously dangerously erratic and strategic, a combination that repeatedly put the community at significant risk over the days that he was in the Park.

b. The Weight of the Evidence

The Court is required to ascribe the least weight to the strength of the evidence, among the four factors, when considering whether to release a defendant. *United States v. Motamedi*, 767 F.2d 1403, 1408 (9th Cir. 1985). The weight of the evidence nonetheless favors detention due to the strong evidence of the defendant's conduct in this case. A.J.'s description of events is corroborated by the physical evidence, her documented injuries, and witnesses' observations of the defendant's erratic behavior and verbal aggression towards A.J. at the Park.

c. The History and Characteristics of the Defendant

1 The Defendant does appear to family support and owns a home. His criminal
 2 history and domestic violence history, as well as his drug use, however support detention.
 3 The defendant has a prior weapons conviction from 2001 where there was a warrant
 4 issued for a failure to appear and he was out on a pending State charge at the time of this
 5 offense.

6 A.J. reports a history of domestic violence assaults from the defendant. Law
 7 enforcement records show multiple calls out to the residence that the two shared, most
 8 recently on August 12th when A.J. ran to a neighbor's house and called 911 after the
 9 defendant pushed her to the ground and kicked her. There were three domestic violence
 10 protection orders entered in 2017 prohibiting the defendant from contacting his ex-wife
 11 and three minors. In the accompanying petitions, Mrs. Chapman reported multiple
 12 incidents of domestic violence abuse including strangulation, various physical assaults,
 13 and verbal threats to use his AR 15 rifle on her. Those protection orders were dismissed
 14 due to Mrs. Chapman's death in an automobile accident in 2018. Additionally, a 2017
 15 police report states that the defendant was in possession of a firearm after being ordered
 16 to surrender all firearms pursuant to the domestic violence protection orders mentioned
 17 above. That report is attached as Appendix B.

18 While the Government is not interested in litigating the defendant's parenting, it is
 19 worth noting that the defendant's brother took his children the night of the incident out of
 20 concern for their safety based on how he was acting. It is clear from the evidence that the
 21 defendant is a danger to the community while on methamphetamine, and it is undisputed
 22 that the defendant is a consistent methamphetamine user. The defendant admits to
 23 "sporadic" use, while his mother and brother described daily use. *See Supplemental*
 24 *Pretrial Service Report* (September 7, 2021). A.J. also indicated that the defendant is a
 25 habitual user. The defendant's history, his drug use, and the fact that he committed this
 26 offense while on release from another offense favor detention.

27 *d. The Nature and Seriousness of the Danger Posed by the Defendant*
 28

1 The defendant's behavior throughout this incident put the community at risk in a
 2 variety of ways. He started a forest fire, disabled a communication device meant for
 3 emergency services, and assaulted A.J. when she tried to call the police. He threatened to
 4 shoot those who he considered the other side of the "revolution" that he believes is
 5 coming and brought a cache of weapons and ammunition into the Park presumably for
 6 that purpose. His mental state and the interplay with his methamphetamine use, which
 7 was described by A.J. as habitual, makes him unpredictable. Given the facts of this case,
 8 it is difficult to overstate the risk that he presents to the community if he is released and
 9 becomes similarly agitated again.

10 *e. No condition or combination of conditions will reasonably assure*
 11 *Chapman's appearance as required and assure the safety of any other person*
 12 *and the community.*

13 The defendant's release plan presents a number of risks given his addiction and
 14 behavior when on methamphetamine. These risks include indirect transportation to the
 15 treatment facility, his ability to leave the treatment facility at any point, lack of
 16 supervision in his post treatment placement, and the time for response if he were to
 17 violate his conditions. The defendant could choose not to report to the meeting place,
 18 and could leave the treatment facility at any time. If he did chose to deviate from the
 19 court approved plan, Pretrial Services would not the capability for an immediate response
 20 even with GPS monitoring.

21 Chapman's paranoia towards the Government presents challenges for GPS
 22 monitoring as well. Given the defendant's attempts to remove an imagined "chip" from
 23 A.J.'s arm on the first day of the charged incident, there appears to be a significant
 24 likelihood that the defendant would make efforts to remove the GPS bracelet if he was in
 25 a similar paranoid state and/or chose to abscond. Similar to situation if the defendant left
 26 or failed to report to treatment, Pretrial Services would not be able to respond
 27 immediately if that occurred, especially given the remote nature of the area in which the
 28 defendant regularly lives.

1 The defendant presents a significant danger to the public and his appearance
 2 cannot be assured if he is using methamphetamine. In a case with a lower risk of harm
 3 when the defendant is using narcotics, this release plan may have been sufficient.
 4 However, due to the defendant's dangerous, erratic, and paranoid behavior while using
 5 narcotics, these conditions do not do enough to mitigate the risk and will not ensure the
 6 safety of the public.

7 V. Conclusion

8 The Section 3142 factors justify detention in this case. For the reasons stated
 9 above, the United States respectfully requests the Court continue to detain the defendant
 10 pending resolution of these charges.
 11

12 DATED this 12th day of November, 2021.
 13

14 Respectfully submitted,

15 NICHOLAS W. BROWN
 16 United States Attorney

17 s/ Kristine L. Foerster

18 Kristine L. Foerster
 19 Assistant United States Attorney
 20 United States Attorney's Office
 21 1201 Pacific Avenue, Suite 700
 22 Tacoma, Washington 98402
 23
 24
 25
 26
 27
 28